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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,644	10/07/2003	Timothy Turner	400 P 1087	5106

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EXAMINER
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NGUYEN, JIMMY T

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/680,644

Applicant(s)

TURNER ET AL.

Examiner

Jimmy T. Nguyen

Art Unit

3725

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/7/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/12/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group II, claims 10-17 in the reply filed on March 27, 2006 is acknowledged. The traversal is on the ground(s) that there would not be a serious burden on the Examiner if the restriction is not required. This is not found persuasive because the independent apparatus as claimed in claim 1 does not require the tooling of the method of claim 10 and could therefore be made by an entirely different method such as displacing a portion of the center panel by a first set of upper and lower tooling and forming the folded portion by using a different set of upper and lower tooling or it can be done by moving a center panel upward instead of downward to remove a counter sink. Because the apparatus as claimed in claim 1 could be made from an entire different method from that of claim 10, the required search are differ, the serious burden has been established, thus the restriction is proper.

The requirement is still deemed proper and is therefore made FINAL, an action on the merits of the elected claims 10-17 follows.

### ***Information Disclosure Statement***

Receipt is acknowledged of an Information Disclosure Statement (I.D.S.), filed January 12, 2004, which I.D.S. has been placed of record in the filed. An initialed, signed, and dated copy of the form PTO-1449 is attached to this Office action.

### ***Specification***

The disclosure is objected to because of the following informalities:

In the written description, page 1, line 2, the word “co-pending” should be deleted because application number 10/219,914 has been matured into US patent number 7,004,345.

In the written description, page 1, line 3, after “2002” the following words should be added --- , now US Patent number 7,004,345 ----.

In the written description, page 1, line 4, the word “co-pending” should be deleted because application number 09/931,497 has been matured into US patent number 6,772,900.

In the written description, page 1, line 5, after “2001” the following words should be added ---, US Patent number 6,772,900 ----.

Appropriate correction is required.

### ***Drawings***

The drawings filed on October 07, 2003 are acceptable subject to correction of the informalities indicated on the attached “Notice of Draftsperson's Patent Drawing Review,” PTO-948. The correction will not be held in abeyance.

### ***Claim Objections***

Claim 17 is objected to because of the following informalities:

In claim 17, line 10, the word “if” appears to be a typo error and should be changed to --- of ---. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, line 4, there is insufficient antecedent basis for the limitation “the can shell” in the claim.

Regarding claim 12, lines 3-4, there is insufficient antecedent basis for the limitation “the intermediate forming segment” in the claim.

***Allowable Subject Matter***

Claims 10-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 10 would be allowable because the art of record, considered alone or in combination, neither anticipates nor renders obvious a method of manufacturing an easy can end member comprising the steps of: *moving the center panel downwardly by the providing relative movement step wherein the U-shaped counter sink is removed extending an area of the center panel radially outwardly; and moving the annular arcuate chuck wall downwardly by the providing relative movement step to form a folded portion between the annular arcuate chuck wall and the center panel*, in combination with the rest of the claimed limitations.

US 3,868,919 to Schrecker et al. is being the closest reference to the instant invention, Schrecker discloses a method for forming a can end comprising the steps of: providing a can shell end including a center panel (fig. 6), a U-shaped counter sink (96), an arcuate chuck wall (121), and a curl (101), Schrecker discloses the step of removing the U-shaped counter sink by moving the center panel downward (figs. 8-9) by a first set of upper and lower tooling (104, 106, 108 and 110). Schrecker discloses folded portion between the chuck wall and the center panel is being created moving the arcuate chuck wall downwardly (figs. 10-11) by a different set of tooling (114, 116, 118 and 120). Therefore, Schrecker fails to disclose the invention as claimed in claim 10, which requires both of the moving steps are being performed by the same upper and lower tooling.

US 3,765,352 to Schubert et al. discloses a method for forming a can end. Schubert discloses a folded portion (51, 53) is being formed by moving a lower tooling (143) upward (col. 6, lines 63-66). Therefore, Schubert fails to disclose the step of moving the annular arcuate chuck wall downwardly by the providing relative movement step to form a folded portion.

Neither the prior art of record nor in combination thereof discloses the claimed invention as set forth in claim 10. Therefore, claim 10 and its dependents would be allowable over the prior art of record if re-written to encompass the same scope and overcome the 35 U.S.C 112 rejections(s).

***Conclusion***

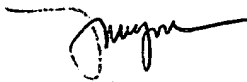
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show relevant method of forming can end.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T. Nguyen whose telephone number is (571) 272-4520. The examiner can normally be reached on Mon-Thur 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272- 4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen  
June 11, 2006

  
JIMMY T. NGUYEN